

D. C. Form No. 106A Rev.

6012 Fed. Bldg., Salt Lake City, Utah 84101

THE TELEX CORPORATION and
 TELEX COMPUTER PRODUCTS, INC.

VS

INTERNATIONAL BUSINESS MACHINES
 CORPORATION

For pltf.

Robert F. Henson
 Henson, Webb & Tully
 1200 Land Title Ins. Bldg.
 Minneapolis, Minn. 55401

(Judge A. Sherman Christensen
 Room 6012, Federal Bldg.
 Salt Lake City, Utah 84101)

Secy: Mrs. Phillips
 8-801-524-5164

ATTORNEYS

For plaintiff:

Floyd L. Walker (584-4136)
 Floyd L. Walker & Associates, Inc.
 405 Mayo Building
 Tulsa, Oklahoma 74103

John E. Barry
 Conner, Winters, Ballaine, Barry &
 McGowen
 First National Bldg.
 Tulsa, Okla. 74103

Mr. Richard B. McDermott
 1300 NBT Bldg.
 Tulsa, Okla. 74103
 Jack B. Bailey
 NBT Bldg.

Tulsa, Oklahoma 74103
 For defendant:

Truman B. Rucker 587-3321
 Paul McBride
 Rucker, Taber, McBride & Hopkins
 P. O. Box 1439
 Tulsa, Okla. 74101

Frederick A. O. Schwarz, Jr.
 Cravath, Swaine & Moore
 One Chase Manhattan Plaza
 New York, New York 10005

STATISTICAL RECORD	COSTS	DATE	NAME OR RECEIPT NO.	REC.	DISB.
J.S. 5 mailed 2-1-72	Clerk	1-21-72	Walker	15 00	15.00
		1-27-72	CD 34		
J.S. 6 mailed	Marshal				
Basis of Action: Violation of Sherman Antitrust Act	Docket fee				
	Witness fees				
Action arose at:	Depositions				

DATE	PROCEEDINGS	Date Order or Judgment Noted
VOL. I, STARTS HERE.		
1-21-72	Complaint, filed. Summons issued. hm (with demand for jury trial)	
1-21-72	Notice of complex and multidistrict litigation, filed. hm	
1-31-72	U.S. Marshals Service, Return on Summons, filed. Served IBM, c/o The Corp. Co., on 1-26-72 with fees of \$4.00, in Okla. City, Okla.	v
2-1-72	Amendment to Complaint, filed. rm	
2-15-72	Motion of def. for extension of time to answer, filed. rm	
2-15-72	Brief in support of motion for extension of time to answer, filed. rm	
2-15-72	Ordered that defendant be granted 60 days in which to answer complaint and cross-complaint. (AEB-J) rm (copies mailed)	
2-4-72	Letter from Multidistrict Panel re: hearing on 2-25-72, filed. v	
3-29-72	Order that Telex, etc., et al and I.B.M. shall not destroy all documents or etc., filed. (AEB-J)v -copies mailed.	
4-3-72	Defendant's demand for documents pursuant to Rule 34, filed. ds	
4-5-72	Plaintiffs' Request for Documents Pursuant to Rule 34, filed. v	
4-7-72	Order, filed, setting out items which may be exempt from order of 3/29/72. (AEB-J) rm <i>Copy mailed to prof atty. copy of order of 3/29/72.</i>	
4-10-72	Plaintiff's notice of availability of documents demanded by defendant pursuant to Rule 34, and plaintiff's request for protective order, filed. ds	
4-10-72	Plaintiff's memorandum in support of granting protective order, filed. ds	
4-14-72	Defendant's answer, filed. ds	
4-17-72	Protective Order and Stipulation. (AEB-J) rm - copies mailed <i>A. Sherman</i>	
4-18-72	Amendment to Protective Order and Stipulation, filed. (AEB-J)v <i>copies mailed</i>	
4-24-72	C/C of Opinion and Order of Judicial Panel on Multidistrict Litigation transferring case to USDC, District of Minnesota, for pretrial proceedings, filed. Original record and c/c of docket sheet transmitted to that Court. hm	
VOL. II STARTS HERE.		
1-5-73	It is ordered that this case is set for final pre-trial hearing on Tuesday, Feb. 20, 1973 at 10:00 A.M. before Judge A. Sherman Christensen, Senior United States Judge, USDC for the Dist. of Utah. (AEB-J)h <i>notice mailed</i>	
1-5-73	It is ordered that this case is transferred to Judge A. Sherman Christensen. (AEB-J)	
1-15-73	Telex's Designation of Trial Witnesses, filed. v	
1-16-73	Attorneys Affirmation of Service with Notice of Witnesses to be Deposed by IBM, attached, filed. v	
1-17-73	Notice to take depositions of Gideon Gartner in N.Y. on 2/5/73 by pltf., filed. rm	
1-17-73	Notice to take deposition of Allen Rosenfeld in N.Y. on 2/9/73 by pltf., filed. rm	
1-17-73	Notice to take deposition of Gary Schneider in NY on 2/7/73 by pltf., filed. rm	
1-22-73	Answer to amended consolidated complaint and counterclaims, filed with exhibits 1A, 1B, 1C, 2A, 2B, 2C, 3C, 4C, 5C, 6A, 6B, 6C, 7A, 7B, 8C, 10A, 10B, 10C, 11C, 12A, 12B, 12C, 13C, 14C, 15A. jj (in separate carton) w/demand for jury trial.	
1-22-73	Attorneys' Affirmation of Service, filed, jj	
1-22-73	Additional attys affirmation of service, filed. rm	
1-26-73	Notice of Taking Deposition of Henry A. Belcik in Tulsa, Okla., on 2-27-73, by the Deft., I.B.M., filed. v	
1-26-73	Notice of Deposition of the Witness Bruce Swearingen, ⁱⁿ on 2-5-73, by the Deft., I.B.M., filed. v	
1-31-73	Subpoena, ret. & filed: served Henry A. Belcik, Tulsa 1-29-73 (USM \$5.36)g served Bruce Swearingen, Tulsa, 1-29-73. (USM \$2.00)g	

A. SHERMAN CHRISTENSEN, SENIOR JUDGE (72-C-89 consolidated
with this case)

CIVIL DOCKET

UNITED STATES DISTRICT COURT

Jury demand date: 1-21-72-(Pltff:) Waived 3-30-73

D. C. Form No. 106A Rev.

6012 Fed. Bldg., Salt Lake City, Utah 84101

TITLE OF CASE

Secy: Mrs. Phillips 8-801-524-5164

ATTORNEYS

THE TELEX CORPORATION and
TELEX COMPUTER PRODUCTS, INC.

VS

INTERNATIONAL BUSINESS MACHINES
CORPORATION

For plaintiff:

Floyd L. Walker (584-4136)
405 Mayo Bldg., Tulsa 74103

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Royce H. Savage

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P. O. Box 1526, Tulsa 74101

Alan M. Gelb

477 Madison Ave., N.Y. 10022

Paul H. Johnson

424 Beacon Bldg., Tulsa 74103

Daniel L. Berman

1010 Kearns Bldg., Salt Lake City, Utah
84101

For defendant: David W. Cohen,

Frederick A.O. Schwarz, Jr., David Boies,

Thomas A. Barr, Robert F. Mullen

One Chase Manhattan Plaza, N.Y. 10005

Truman B. Rucker, Wm. D. Hunt(587-3361)

P. O. Box 1439, Tulsa 74101

Charles Waygood

299 Park Ave., N.Y. 10017

John E. Dougherty

IBM Corp., Old Orchard Road

Armonk, N. Y. 10504

Nicholas Katzenbach

212-422-3000

A. SHERMAN CHRISTENSEN
SENIOR UNITED STATES DISTRICT JUDGE
6012 FEDERAL BUILDING
SALT LAKE CITY, UTAH 84111

OFFICIAL BUSINESS

STATISTICAL RECORD	COSTS	DATE	NAME OR RECEIPT NO.	REC.	DISB.
J.S. 5 mailed 2-1-72	Clerk	1-21-72	Walker	15 00	
		1-27-72	C/D 34		15 00
		10-17-73	Novovich	5 00	
J.S. 6 mailed 11-1-75	Marshal	10-18-73	C/D #13		5 00
		10/31	Rucker	5.00	
		11-1-73	C.D.#15		5 00
		11-20-73	Rucker	5 00	
		11-23-73	C/D #18		5 00
Basis of Action: Violation of Sherman Antitrust Act	Docket fee	11-27-73	Walker	5 00	
	Witness fees	11-29-73	C/D #19		5 00
Action arose at:	Depositions	12-10-73	Rucker	5.00	
		12-11-73	Walker	500	
		12-13-73	C/D #21		10 00

DATE	PROCEEDINGS	Date Order or Judgment Noted
2-2-73	Interrogatories to pltfs. (experts), filed. rm	
2-2-73	Attys affirmation of service of above, filed. rm	
2-2-73	Notice to take depositions of Gideon Gartner in N.Y. on 2/14/73 by pltf., filed. rm	
2-5-73	Pltfs. First set of interrogatories to defendant, filed. jj	
2-5-73	Interrogatories regarding defts. experts, filed. jj	
2-6-73	Notice of Deposition, filed by Deft., I.B.M., to be taken 2-19-73, in New York, of the person-BERTON M. HOCHFELD, with the designation of materials to be produced attached to this notice. v	
2-6-73	Notice of Deposition of F. EBERSTADT & CO., INC., in New York, on 2-16-73, with the designation of materials to be produced attached to this notice, filed. v	
2-7-73	Subpoena, ret. & filed: served James F. Way, Jr., K.C., Mo. 1-24-73. g	
2-8-73	Notice of Motion to Compel Pltfs to Specify the Documents they Destroyed During this Litigation w/Affidavit of David Boies, filed. jj	
2-8-73	Notice to take depositions of ALAN ROSENFELD in New York on 2-16-73, and to produce documents set out on the attachment, filed. v	
2-8-73	Notice to take deposition of GARY SCHNEIDER in New York on 2-16-73 and to produce documents set out on the attachment, filed. v	
2-12-73	Telex's Objections to Rule 31 Depositions (IBM CENSUS) filed. js <i>by Order of Judge Christensen</i>	
2-12-73	Pltf's Motion for an ext. of add. time within which to move respecting or answer the counterclaims of the deft., and for add. time to plead or Reply to Deft's Answer w/BRIEF in support, filed. r <i>by Judge Christensen</i>	
2-12-73	Notice of Mtn. for order Shortening Time Within Which to Ans. Interrog. and to Compel Compliance w/Pretrial Order No. 12, filed. jj	
2-12-73	Mtn. for Order Shortening Time Within Which to Ans. Interrog, filed. jj	
2-12-73	Brief in Support of Pltfs' Mtn. for Order Shortening Time Within which to Ans. Interrog., filed. jj	
2-12-73	Pltfs' Second Set of Interrog. to Deft., filed. jj	
2-13-73	Motion for Separate Trial of Deft.'s Counterclaims, filed by Pltf. v	
2-13-73	Pltf.'s Brief in support, filed. v	
2-13-73	Motion to prohibit taking of deposition and for Protective order under the Provisions of Rule 30(d) and Rule 26(c), filed. v	
2-13-73	Brief in support, filed. v	
2-14-73	Notice of motion to prohibit taking of deposition and for protective order under the provisions of Rule 30(d) and Rule 26(c) filed. ds	

DATE	PROCEEDINGS	Date Order or Judgment Noted
2-14-73	Pltf's. REsponse to Deft's. Mtn. Regarding Alleged Destruction of Documents., filed. jj	
2-15-73	Deft's. Notice of Depositions of James, Porter, Gratton, Williams & Taylor, filed. jj	
2-15-73	Deft's. Notice of Deposition of Richard A. Whitcomb, filed. jj	
2-15-73	Telex's Third Set of Interrogatories, filed. jj	
2-15-73	<i>sequestered (with files separated)</i> Telex's Requests for Admissions Numbered 35 to 535, Inclusive, filed. jj <i>2 copies of set - The 1-435 in exhibit room</i>	
Vol. III STARTS HERE.	2-16-73	IBM's interrogatories to plaintiffs, filed. ds <i>(Set 1)</i>
	2-16-73	IBM's memorandum in support of its motion to compel plaintiffs to specify the documents they destroyed during the pendency of this litigation, filed. ds
	2-16-73	<i>sequestered (with files separated)</i> IBM's requests for admissions, filed. ds
	2-20-73	Attorneys affirmation of service, filed. ds
	2-20-73	Affidavit of Truman B. Rucker, filed. ds
	2-20-73	IBM's list of trial witnesses, filed. ds
	2-20-73	Memorandum in support of IBM's motion to compel discovery, filed. ds
	2-20-73	Affidavit of David Boies in support of IBM's motion to compel discovery, filed. ds
	2-20-73	Notice of motion and motion to compel discovery, filed. ds
	2-20-73	Affidavit in opposition to Telex's motion to prohibit taking of deposition and for protective order, filed. ds
	2-20-73	IBM's motion to compel discovery, filed. ds
	2-20-73	Attorney's affidavit of service, filed. ds
	2-20-73	Affidavit of Thomas D. Barr, filed. ds
	2-20-73	Defendant's objections to plaintiffs' second set of interrogatories, filed. ds
	2-20-73	Affidavit of Thomas D. Barr, filed. ds
	2-20-73	IBM Memorandum in opposition to Telex's motion for a separate trial of IBM's counterclaims, filed. ds
Vol. IV STARTS HERE.	2-20-73	Motion to compel plaintiffs to specify the documents they destroyed during this litigation, filed. ds
	2-20-73	Attorneys affirmation of service, filed. ds

CHRISTENSEN

D. C. 110A Rev. Civil Docket Continuation

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DATE	PROCEEDINGS	Date Order or Judgment Noted
2-20-73	Affidavit of Ronald A. Skoller, filed. jj	
2-20-73	Telex' Response to IBM's Motion to Compel Discovery, filed. jj	
2-20-73	Telex's designation of trial exhibits and charts, filed. ds <i>in separate file as trial exhibits</i>	
2-20-73	Telex' Exhibit 1.2.1. filed. ds	
2-20-73	Telex' Exhibits 1.2.2 - 1.2.15 filed. ds	
2-20-73	Transcript of Proceedings in Minnesota, filed, including c/c of order to transfer. v (Vol. IV A)	
2-20-73	<p>Pre-Trial Hearing held, before Judge A. Sherman Christensen, with Judge Phillip Neville in attendance, regarding this case and 72-C-89, they having heretofore been consolidated in District of Minnesota, Third Division. Parties present and rep. Court orders there will be <u>no</u> Ex Parte Orders entered even for extension of time. Agenda of hearing distributed. Wm. F. Powers and John Kinslow asks to have access to certain exhibits filed with Telex's Request for Admissions. Ct. Requests Kinslow to file appl. regarding his request for exhibits, and appl. is then filed. Ct. grants parties <u>5 days</u> to respond to said appl. Court directs parties to prepare pre-trial order based on stipulation heretofore entered and results of this pre-trial conference. Stipulation to be made regarding ultimate and subsidiary issues, and they shall be included in Pre-Trial order. Deft. is to prepare stipulation by <u>March 20, 1973</u>, of ultimate facts of background. Deft. is to correlate to Pltf. the numbers in Request for Admissions to the proposed stipulation. Deft. has until <u>Feb. 24, 1973</u>, in which to make such correlation. Deft. is given until <u>3-13-73</u> to respond to Pltf.'s Request for Admissions. Parties are to agree on Final Statements of Facts and file with the Court before <u>March 20, 1973</u>. Court rules that prior protective orders are still in force. Schedule of dates for filing pldg.s was presented to Court and attached to Court room minute sheet. All motions are to be filed with briefs and opposing counsel are granted 5 days to respond. Court will then grant oral argument if necessary and then make ruling. Court allows IBM to withdraw its Motion to Compel Discovery. Regarding Pltf.'s Motion for extension of time to answer counterclaims and for additional time to reply to Deft.'s answer, parties stipulate and Court agrees that Pltf. shall be granted an extension until <u>March 12, 1973</u>. Court denies Pltf.'s Motion for separate trial of Deft.'s Counterclaims. Regarding deft's motion to compel Telex to describe destroyed documents, Pltf. is to submit any new information regarding this matter to the Court in 3 Weeks and subsequently take deposition of executive of Telex in charge of documents. Court overrules Telex's Motion to prohibit the taking of depositions and for protective order under Rule 30(d) and Rule 26(c). Telex request IBM's depositions be limited to a maximum of 4 days per witness and limit the number of lawyers allowed to depose each witness. Motion for protective order sustained, in that Court grants IBM 2 days to take the deposition of Mr. Hockfeld. Court denies the re-examination of Mr. Page and Mr. Whitcomb. Court passes further ruling on the limiting of the</p>	

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DATE	PROCEEDINGS	Date Order or Judgment Noted
2-20-73	<p>Cont. depositions, if there is any problem the attorneys are to mail the deposition transcript to the Court. Parties stipulate and Court agrees that Deft.'s objections to 2nd Set of Interrogatories is Moot, because Deft. has agreed to answer by <u>March 10, 1973</u>. Telex moves to sequester Pltf.'s Request for Admissions and attached exhibits. Court sequesters Pltf.'s and Deft's request for Admissions, accompanying exhibits, and deposition transcripts. Anything previously sequestered shall remain so, until further ordered. Appl. to permit inspection and reproduction of pldg.s was presented to Court and the matter is taken under advisement, and parties are granted 5 days to respond. Parties stipulate to Telex's Objection to Rule 31 depositions (IBM Census), making the objection Moot. At the start of trial all exhibits are to be introduced in gross. The part of depositions to be used in trial are to be marked prior to trial. Parties are to include in pre-trial order and notify Court in 2 wks. as to the size of the Jury they want to use. Parties are to submit requested instructions and voir dire questions to the Court one week prior to trial. There will be no relaying of atty.s in examining witnesses during trial. (Larry Marks, Earl Anderson, and John Ledford-CSR's) (ASC-J)v</p>	
2-20-73	<p>Appl. to permit inspection and reproduction of documents, filed by California Computer Products. v</p>	
2-20-73	<p>Appl. for Order authorizing Court Clerk to reproduce certain documents and make them available to Computer industry association, filed by Computer Industry Association. v</p>	
2-22-73	<p>Reporter's Transcript of Proceedings had on Feb. 20, 1973, Pre-Trial, filed. (Signed by L. Marks, CSR) v <i>no original, original to be in</i></p>	
2-23-73	<p>Pltfs' motion to shorten time to answer interrogatories, filed. hm</p>	
2-23-73	<p>Memorandum brief in support of motion for shortened time to answer interrogatories, filed. hm</p>	
2-23-73	<p>Pltf's first interrogatories to deft. respecting second counterclaim, filed. hm</p>	
2-23-73	<p>Errata to IBM's Requests for Admissions, filed. v <i>agreed with reg. for Adm.</i></p>	
2-23-73	<p>Notice of Deposition, filed by Telex. Floyd Howell, Jr., to be deposed on 3-5-73, in Miami, Florida. v</p>	
2-23-73	<p>Amenment to Telex's Third set of Interrogatories, filed. v</p>	
2-23-73	<p>Notice of Deposition, filed by Telex. Robert W. Farrell will be deposed on 3-2-73 in New York. v</p>	
2-23-73	<p>Telex's Response to Calif. Computer Products Appl. for Permission to Inspect and Reproduce Documents, filed. v</p>	
2-27-73	<p>Defendant's notice of depositions, filed. ds</p>	
2-26-73	<p>Atty.'s Aff. of Service, of Robert F. Mullen, filed. v</p>	
2-26-73	<p>Atty.'s Aff. of Service, of Robert F. Mullen, filed. v</p>	
2-26-73	<p>IBM Memo. in opposition to appl. of Computer Industry Assoc. and Calif. Computer Products, to make certain IBM confidential documents, filed. v</p>	

DATE	PROCEEDINGS	Date Order or Judgment Noted
2-27-73	Reply of Computer Industry Assoc. to IBM Memo. in opposition to appl. of the Computer Industry Assoc. and Calif. Computer Products, Inc., for Reproduction of Certain Documents, filed. v	
2-28-73	Notice of deposition of Dr. Leonard Forbes, filed. hm	
2-28-73	Notice of Witnesses to be Deposed by Telex, filed. jj	
2-28-73	Telex's Statement of Issues, filed. jj	
3-1-73	Notice of Deposition, filed by IBM. John Gratton will be deposed in Okla. City, on 3-5-73. v	
3-5-73	Proceedings from the District of Minnesota, filed. Enclosed are documents covered by Judge Neville's Order of 2-15-73, except minutes of proceedings not now in Minn.'s possession. v	
3-6-73	Order, filed. (Ruling on Appl. for Order Authorizing the Clk. to reproduce certain documents and make them available to Computer Industry Assoc.) The release of exhibits is denied to non-parties, except those documents numbered 326, 362 & 477. This ruling is without prejudice. (ASC-J)v	
3-6-73	Notice of Deposition, filed. IBM will depose Thomas Mattimore, Reynolds and Co., in Philadelphia, Penn. on 3-15-73, at 9:30 A.M. v	
3-6-73	Notice of Deposition, filed. IBM will depose Reynolds and Co., thru its managing agent, officer, director, etc., in Penn. on 3-15-73. v	
3-7-73	Pltf's. Notice of Deposition, filed to depose Robert D. Gunn, Stillwater, 3-14-73. jj	
3-7-73	Pltf's. Notice of Deposition, filed to depose Marcum, Steeper, Sullivan, Plaster and George, 3-12-73 through 3-14-73 at Tulsa. jj	
3-7-73	Notice of Deposition, filed. Pltf. will depose Anthony G. Oettinger in Mass. on March 12, 1973, at 1:30 P.M. v	
3-8-73	Order, filed, shortening time Deft. is to answer Pltf.s' First Set of Counterclaim Interrogatories, to March 13, 1973. (ASC-J)v	
3-8-73	Order, filed, Concerning Requirements of Local Rule 34. It is ordered that the requirements of Rule 34 of the Rules of Court of the N.D. of Okla.-(re: setting the interrogatory or request before the answer)-be waived as relating to Pltf.s' answer to Deft.'s Requests for Admissions as amended & corrected by Errata. (ASC-J)v <i>copies noted.</i>	
3-8-73	Notice of Deposition, filed by IBM. Robert J. Woods will be deposed, on 3-15-73, at 9:30 A.M. v	
3-8-73	Notice of Deposition, filed by IBM. Harold L. Pickering will be deposed 3-15-73 at 9:30 A.M. v	
3-8-73	Notice of Deposition, filed. IBM will depose E. J. Gaudion 3-15-73 at 9:30 A.M. v	

Sheet No. 4, Page No. 8

DATE	PROCEEDINGS	Date Order or Judgment Noted
3-8-73	Notice of Deposition, filed. Telex will depose Frank M. Heinzmann in Miami, Florida, on 3-14-73. v	
3-8-73	Notice of Deposition, filed. Telex will depose James F. Welch, on 3-13-73, in New York. v	
3-8-73	Return on Subpoena Duces Tecum, filed. Served on Glen Peaster on 11-8-73. v (Fees of \$5.00)	
3-8-73	Return on Subpoena Duces Tecum, filed. Served Wayne George on 3-8-73, with fees of \$5.00. v	
3-8-73	Return on Subpoena Duces Tecum, filed. Served L.E. Macune on 3-8-73, with fees of \$5.00. v	
3-9-73	Motion of the Deft. to Quash Subpoenas Ducas Tecum (or in the alternative -Motion for a Protective Order Limiting Scope of Examination), filed. v	
3-9-73	Brief in Support, filed. v -order to Judge Barrow.	
3-9-73	Motion to Suppress Notice of Deposition or to Limit Discovery, filed by Pltf. v	
3-9-73	Brief in Support of Motion, filed. v -order to Judge Barrow.	
3-9-73	Order, filed, that the Depo.s listed in Pltf.'s Mot. to Suppress Notices of Depos. filed on 3-9-73, and those depos. listed in Deft.'s Mot. to Quash Subpoenas Duces Tecum, etc., filed on 3-9-73, -be and hereby are SUSPENDED pending discussion between Judge Christensen and Counselors, to occur on 3-14-73. (AEB-J)v -copy to Judge Christensen.	
3-9-73	Order, filed, that the Depos. listed in Pltf.'s Mot. to Suppress Notices of Depos., filed 3-9-73, are suspended, pending discussion between Ct. and Parties. (AEB-J)v -copy to Judge Christensen.	
3-9-73	Order, filed, Staying the Depos. of Marcum, Steeper, Sullivan, Plaster, George, Gumm, Welch, and Oettinger, previously set; and should be stayed until parties have conference with Judge Christensen to be held on 3-14-73. (AEB-J)v -copy to Judge Christensen.	
3-12-73	Notice of Depositions, filed. IBM will depose Jms. L. Martin & John Schmitt, on 3-14-73. v	
3-12-73	List of Depos. IBM presently intends to read at trial as part of its direct case, filed. v	
3-12-73	Plaintiffs' reply to defendant's counterclaims, filed. hm	
3-12-73	Subpoena Duces Tecum, Return, filed. Served Neil Sullivan, personally, plus giving him check of \$25.00. Served on 3-11-73, near Sand Springs. v	
3-12-73	Motion of the Pltf.s to Suppress Notice of Deposition, filed. v	
3-12-73	Brief in Support, filed. v	
3-12-73	Affidavit of G. Harry Ashbridge, filed. v	

DATE	PROCEEDINGS	Date Order or Judgment Noted
3-12-73	Pltfs' Answers to Interrogatories Addressed to Pltf.s' Experts, filed.v	v
3-13-73	Notice of Deposition, filed. IBM will depose Alvin (NMI) Krakow, filed. v	v
3-14-73	Supplement to Motion to Suppress Notice of Depo. or Limit Discovery of Witnesses, Thos. Mattimore and Reynolds & Co., filed. v	v
3-14-73	Supplemental Memorandum Brief, filed. v	v
3-16-73	Subpoenas returned and filed. Served Harold L. Pickering and Robert J. Woods on 3-12-73 at Tulsa and tendering witness fee of \$21.00 and \$22.50 respectively. jj	
3-16-73	IBM Memorandum in Opposition to Telex's Motion to Suppress Notice of Deposition, filed. jj	v
3-16-73	Deft's. Answers to Pltf's. First Set of Interrogatories, filed. jj	v
3-16-73	Telex's Trial Brief, filed. v	v
3-16-73	Answers to Interrogatories Addressed to Pltf.s, (Set I), filed. v	v
3-16-73	Response to Requests for Admissions,, filed by Pltf. v	v
3-19-73	IBM's Response to Pltf.s' Requests for Admissions Numbered 35 Through 535, filed. v	v
3-19-73	Stipulation of Background Fact Concerning Electronic Data Processing, The Products, The Industry, The Parties and The Issues, filed. v	v
3-19-73	Designation of Exhibits IBM Presently Intends to Use at Trial as part of its Direct Case, filed. v	v
3-19-73	IBM's Response to Pltfs' Third Set of Interrogatories and Amendment to Third Set of Interrogatories, filed. v	v
3-19-73	Ordered that this case be set for Further Pre-Trial on March 30, 1973, at 10:00 A.M., Friday, in Judge Allen E. Barrow's Conference Room.(ASC-J)v	v
- Vol. 5 -		
3-20-73	IBM's Objections to Telex's Designation of Trial Exhibits & Charts, filed. v	v
3-20-73	Brief in support , filed. v	v
3-20-73	Atty.'s Affirmation of Service, filed. v	v
3-20-73	Transcript of Master's Hearing before Richard W. Johnson, Special Master, in Minn., on 3-12-73, filed. Lawrence Linberg-Reporter. v	v
3-20-73	Transcript of Motion Hrg. before Judge Neville, in Minn., on 3-16-73, filed. Lawrence Lindberg-Reporter. v	v
3-21-73	Deft.'s Ans. to Pltf's First Interrogatories to Deft. respecting 2nd Counterclaim, filed. jj	v
3-21-73	IBM's Statement of the Issues, filed. jj	v

DATE	PROCEEDINGS	Date Order or Judgment Noted
3-21-73	Mot. for Order Compelling Discovery Under Rule 37 with Respect to Telex's Requests for Admissions, No. 35 To 535, Inclusive, filed. v	
3-21-73	Brief in support, filed. v	
3-21-73	Mot. for Order Compelling Discovery or other appropriate relief, filed by Pltf. v	
3-21-73	Brief in support, filed. v	
3-21-73	Notice of Mot. for Order Compelling Discovery or other appropriate relief, filed. v	
3-26-73	Deposition of Frank M. Heinzmann on behalf of pltfs., filed.	
3-26-73	Deposition of Floyd Howell, Jr. on behalf of pltfs., filed. g	
3-26-73	Memo. of IBM in opposition to Telex's mo/strike IBM'S interrog. ans., or sever or dismiss counterclaim, filed. rm	
3-26-73	IBM's memo. in opposition to Telex's mo/order compelling discovery w/regard to Telex's req. for adm., filed. rm	
3-26-73	Affid. of T. D. Barr in support of above memo., filed.rm	
3-26-73	Mo. and notice of motion for preclusion order and other relief based on Telex's destruction of documents, filed by IBM. rm	
3-26-73	IBM's brief in support of above motion and notice, filed. rm	
3-26-73	Additions to list of depositions IBM intends to read at trial as part of its direct case, filed. rm	
3-26-73	Def.'s answers to interrogatories regarding def.'s experts, filed. rm	
3-26-73	Subpoenae, ret. & filed: served Roger M. Wheeler 3-16-73; and Richard L. Martin, 3-21-73. g	
VOL 6 3-28-73	Affidavit of J. B. Bailey, re conversation with Assoc. Ed. of Forbes, filed.rm	
3-29-73	C/C of order transferring deposition transcripts, filed, directing Clerk of USDC for Dist. of Arizona to forward to Clerk of this Dist. deposition transcripts & exhibits & that such documents are subject to terms of all existing applicable protective orders. (Philip Neville-J)hm	
3-29-73	C/C of order, filed, directing Clerk of USDC for Dist of Minnesota to transfer responses to Rule 31 (Census) to Clerk in No. Dist. of Okla., all subject to provisions of existing applicable protective orders. (Philip Neville-J)hm	
3-29-73	O/C or order, filed, that IBM shall provide Telex one complete set of microfilm with images of those documents which IBM claims privilege, such microfilm to remain covered by all applicable protective orders; and that Control Data shall forward under seal to Clerk of No. Dist. of Okla. a complete set of said microfilm which is to remain under seal & unavailable to pltfs. or until further order of trial judge. (Philip Neville-J)hm	
3-29-73	Deft's memorandum in response to Telex's motion and supplement to motion to suppress the deposition of Thomas S. Mattimore, filed. hm	
3-29-73	Telex's response to IBM's memorandum in support of IBM's motion for preclusion order and other relief based on Telex's destruction of documents, filed. hm	

(continued)

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9 page

DATE	PROCEEDINGS	Date Order or Judgment Noted
3-28-73	Pre-trial order No. 14, filed. (ASC-J)hm	
3-28-73	Stipulation of background facts concerning electronic data processing, the products, the industry, the parties & the issues, filed. (ASC-J)hm	
3-30-73	Deft's document demand, filed. hm	
3-30-73	Notice of motion and motion for an order compelling discovery (deft's), filed. hm	
3-30-73	IBM's memorandum in support of IBM's motion for an order compelling discovery, filed. hm	
3-30-73	Attorneys' affirmation of service, filed. hm	
3-30-73	Further pre-trial hearing held. Parties represented. Agenda for hearing filed in open court. Pltf. announces waiver of jury & deft. agrees to waive jury, both on complaint & counterclaim. Court grants waiver & case will be tried to the Court. No written waiver required to be filed. Pltf. announces background stipulation will be completed before trial. Deft. submits a copy of compilation of requests for admissions with pltf's answers for Court's information. Court states desire to work with original exhibits. Copies of all exhibits to be distributed to witness, Court & opposing counsel. Clerk granted leave to let counsel have exhibits overnight if returned next morning before trial. Exhibits, except those en camera, will be available to public. Depositions shall be deemed read into record & marked portions shall be received in evidence. Court requests cover sheet with each deposition stating significance of deposition. All objections to depositions will be reserved to final submission & counsel to submit motions to strike to cover these objections at end of evidence. Pltf's motion for order compelling discovery under R. 37 with respect to Telex's request for admissions numbered 35 to 535, inclusive, is denied by Court and worked out by parties. Pltf's motion for order striking IBM's ans. to interrog. with respect to counterclaim or requiring further ans. to be filed & verified, or for dismissal or severance of counterclaims, also worked out by counsel. As to deft's objections to Telex's designation of trial exhibits & charts, pltf. requests permission to reserve right to urge the doctrine of abuse of privilege. Parties directed to confer as to obj. to exhibits to be offered at trial & classify obj. into 2 categories: (1) those that can be ruled on prior to trial & (2) those that have to be ruled on at time of trial. Parties to file on or before 4-12-73 simultaneous briefs on question of objections in view of results of conference. Final conference set for 4-13-73 at 10:00 a.m. in Judge Bohanon's conference room. Motion & supplement to motion to suppress deposition of Mattimore is denied. Parties request order concerning equipment & large exhibits to be used at trial & Court directs counsel to confer with Judge Barrow on a suitable order. Deft's motion for preclusion order re destruction of documents is denied. Pre-trial publicity discussed & Court reiterates the order of Court as to any publicity. Court orders non-sequestration of witnesses with agreement of parties. Court reporter to check with Court at 9:15 each morning(over)	

DATE	PROCEEDINGS	Date Order or Judgment Noted
	as to corrections. Parties to agree on 5 or 6 ultimate issues of fact with any subsidiary issues. Parties to prepare proposed findings to be submitted before final arguments. Court states that opening statements are optional. (ASC-J)(Larry Marks, John Ledford, Bruce Tiffany - CSR's)hm	
4-3-73	Three volumes of deposition of Desmond Jones, with exhibits filed. Taken on behalf of defendant, under direction of Larry E. Marks, CSR, taken on 2-21-73, 2-22-73 and 2-23-73. h	
4-3-73	Deposition of Donald Lee Calfin in 2 volumes and exhibits filed. Taken on behalf of def., under direction of Larry E. Marks, CSR in Tulsa, Okla., on Feb. 26 & 27, 1973. h	
4-3-73	Deposition of John E. Zimmerman in 2 volumes with exhibits filed. Taken by def. before notaries public under supervision of Larry E. Marks, CSR at Tulsa, Okla. on Jan. 23 & 24, 1973. h	
4-3-73	Deposition of Douglas Charles Cornwall with exhibits filed. Taken under direction of Larry E. Marks, CSR in Tulsa, Okla. on March 19, 1973. (on behalf of def.)h	
4-3-73	Deposition of Donald Walter Janz in 2 volumes filed. Taken be defendant under direction Larry E. Marks CSR at Tulsa, Okla. on Feb. 13, 1973.h	
4-4-73	Telex's objections to IBM's trial exhibits and charts, filed. hm	
4-5-73	Stipulation and Order, filed, from the Judicial Panel on Multidistrict Litigation. Ordered that on 4-13-73, the said case be remanded to the U.S. District Court for the N.D. of Okla. for Trial. Further ordered that on or before 4-13-73, the parties of said case shall furnish to Clerk in Okla. a designation of the contents of the record to be remanded and supply said Clerk all necessary copies. v	
4-6-73	Trial brief of IBM, filed. rm <i>lose because of size</i>	
4-10-73	Deposition of Bruce Swearingen, filed (5 volumes and exhibits, filed. hm	
4-10-73	Deposition of Richard A. Whitcomb, filed. (2 volumes and exhibits.)hm	
4-10-73	Deposition of Otis S. Page, filed (2 volumes and exhibits). hm	
4-10-73	Deposition of Anders Torgerson, filed (2 volumes and exhibits). hm	
4-10-73	Deposition of Paul C. Vilandre, filed (2 volumes and exhibits). hm	
4-10-73	Deposition of Paul T. Cochlan, filed (1 volume and exhibits). hm	
4-10-73	Deposition of Dr Chris Larson, filed (4 volumes and exhibits). hm	
4-10-73	Deposition of John Clemens, filed (4 volumes and exhibits). hm	
4-10-73	Deposition of Clyde Seichi Ikehara, filed (1 volume and exhibits).hm	
4-10-73	Deposition of Vijay Krishan Kapoor, filed (1 volume and exhibits). hm	
4-10-73	Deposition of Henry E. Davenport, filed (2 volumes and exhibits). hm	
4-10-73	Deposition of Laurence J. Winik, filed (1 volume and exhibits). hm	
4-10-73	Deposition of George Ahearn, filed (1 volume). hm	
4-10-73	Deposition of Robert A. Greer, filed (1 volume and exhibits). hm	
4-10-73	Motion and notice of motion for an order granting IBM leave to serve requests for admission, filed. hm	
4-10-73	IBM's memorandum in support of its motion for leave to serve requests for admission Nos. 2,3 & 4, filed. hm	

(cont.)

DATE	PROCEEDINGS	Date Order or Judgment Noted
4-10-73	Affidavit of Thomas D. Barr, with exhibit attached, filed. hm	
4-10-73	Notice of motion and motion for an order compelling production of documents (of IBM), filed. hm	
4-10-73	IBM's memorandum in support of IBM's motion for an order compelling production of documents, filed. hm	
4-10-73	Attorneys' affirmation of service, filed. hm	
<u>Vol. 7</u>		
4-12-73	Telex's Response to IBM's Motion for Leave to Serve Requests for Admissions, filed. v	
4-12-73	Memorandum in Support of Pltf.'s Response to Deft.'s Mot. for Leave to Serve Requests for Admissions, filed. v	
4-12-73	Pltf.'s <u>Response</u> to Deft.'s Mot. for an Order Compelling Production of Documents: <u>and</u> Telex's Counter <u>Motion</u> , filed. v	
4-12-73	Memorandum in Support of Response, filed. v	
4-12-73	IBM's report on the status of the trial exhibits and marking of deposition transcripts, filed. hm	
4-12-73	IBM's preliminary memorandum of law regarding its general objections to Telex's trial exhibits, filed. hm	
4-12-73	Affidavit of Leighton C. Wood, filed. hm	
4-12-73	Atty's Affirmation of Service, filed. jj	
4-12-73	Final pre-trial order, filed. (ASC-J)hm	
4-12-73	Stipulation of fact (No. 2), filed, with approval of Court. (ASC-J)hm (Attached to final pre-trial order)	
4-12-73	Stipulation of fact (No. 3), filed, with approval of Court. (ASC-J)hm (Attached to final pre-trial order)	
4-12-73	Pltf's motion for order compelling discovery under Rule 37 with respect to Telex's demand for document inspection (counterclaim), filed. hm	
4-12-73	Memorandum brief in support of pltf's motion for order compelling discovery under Rule 37 with respect to documents needed for defense of counterclaim, filed. hm	
4-13-73	Transcript of 3-22-73, before Judge Philip Neville of Hearing, filed. r	
4-13-73	Transcript of Motion hearing of 4-11-73, before Judge Philip Neville, filed. r	
4-13-73	Transcript of 3-23-73, before Master, Richard Johnson of Minn., filed. r	
4-13-73	Transcript of Appearances, filed. r (Exh. attached)	
4-13-73	Transcript of 3-8-73, filed. r	
4-13-73	Deposition of Peter L. Rose, filed (4 Volumes & Exhibits, filed) r	

DATE	PROCEEDINGS	Date Order or Judgment Noted
4-13-73	Deposition of Ronald H. McGuire, filed (3 Volumes & Exhibits, filed)	r
4-13-73	Deposition of Ernest Lowell Morse, filed. (3 Volumes & Exhibits filed.)	r
4-13-73	Deposition of Gideon Gartner filed. (2 vols. and exhibits)	ds
4-13-73	Dep. of Fred M. Gifford, filed. (1 vol. and 1 box of exhibits)	jj
4-13-73	Dep. of Robert B. Dallenbach, filed. (3 vols. and exhibits)	jj
4-13-73	Dep. of Rion Glen Day, filed. (1 vol. and exhibits)	jj
4-13-73	Dep. of Silvio Cianfrone, filed. (3 vols. and exhibits)	jj
4-13-73	Dep. of James R. Heavener, filed. (21 vols. w/exhibits)	jj
4-13-73	Dep. of Richard L. Martin, filed. (5 vols. w/exhibits)	jj
4-13-73	Dep. of David Bangle, filed, filed. (3 vols. w/exhibits)	jj
4-13-73	Dep. of Sunil Kumar Bahl, filed (2 vols. w/exhibits)	jj
4-13-73	Dep. of James Frank Potts, filed (4 vols. w/exhibits)	jj
4-13-73	Dep. of Harold L. Pickering, filed (1 vol.)	jj
4-13-73	Dep. of Wayne L. George, filed (1 vol.)	jj
4-13-73	Dep. of William R. Demmer, filed (1 vol. w/exhibits)	jj
4-13-73	Dep. of John H. Wilson, filed (1 vol. w/exhibits)	jj
4-13-73	Dep. of Ross M. McDonald, filed (1 vol. w/exhibits)	jj
4-13-73	Dep. of Wm. F. Styler, filed (4 vols. w/exhibits)	jj
4-13-73	Dep. of Dr. Leonard Forbes, filed (1 vol. w/exhibits)	jj
4-13-73	Dep. of Paul Esling, Jr., filed (1 vol. w/exhibits)	jj
4-13-73	Dep. of James E. McNeill, Jr., filed. (2 vols. w/exhibits)	jj
4-13-73	Dep. of Franklin Gary Rudd, filed. (1 vols. w/exhibits)	jj
4-13-73	Dep. of A. Leon Egleson, filed. (1 vol. w/exhibits)	jj
4-13-73	Dep of G. Harry Ashbridge, Jr., filed (5 vols. q/exhibits)	jj
4-13-73	Dep. of Orris Eugene Reed, filed. (2 vols. w/exhibits)	jj
4-13-73	Dep. of Howard Leroy Gruver, filed. (2 vols. w/exhibits)	jj
4-13-73	Dep. of Vernie L. Blunk, filed. (1 vol. w/exhibits)	jj
4-13-73	Dep. of Steven J. Jatras, filed. (7 vols. w/exhibits)	jj
4-13-73	Dep. of James W. Martin, filed. (1 vol.)	jj
4-13-73	Dep. of Joseph A. Sarlisano, filed. (9 vols. w/exhibits)	jj
4-13-73	Dep. of Daniel H. Drake, filed (2 vols. w/exhibits)	jj
4-13-73	Dep. of Herbert Charles Galle, filed. (2 vols. w/exhibits)	jj
4-13-73	Dep. of Conrad C. Burke, filed. (4 vols. w/exhibits)	jj
4-13-73	Dep. of Joseph William Johns, filed. (5 vols. w/exhibits)	jj
4-13-73	Dep. of G. Fulton Warren, Jr., filed. (2 vols. w/exhibits)	jj
4-13-73	Dep. of Edward R. Grant, filed. (4 vols. w/exhibits)	jj
4-13-73	Dep. of F. Donald Ventura, filed. --{	
4-13-73	Dep. of Warren C. Hume, filed (6 vols. w/exhibits)	jj
4-13-73	Dep. of Winston E. Ice, filed (3 vols. w/exhibits)	jj
4-13-73	Deposition of Robert E. Justice, filed (3 volumes and exhibits)	hm
4-13-73	Deposition of Jack S. James, filed (9 volumes and exhibits)	hm
4-13-73	Deposition of Roger Milton Wheeler (4 volumes and exhibits)	hm
4-13-73	C/C of order from Dist. of Minn. re "privilege" items & directing Clerk to keep 5 folders of documents under seal & not making them available to anyone until further order of Court. (Philip Neville-J)	hm
4-13-73	(with 5 folders)	
4-13-73	Final pre-trial hearing held. Daniel L. Berman admitted to practice for this case only. The matter of the press being present discussed & press allowed to be present except on en camera matters. Press to be allowed to sit on first row of seats behind railing on E. side of	(cont.)

DATE

PROCEEDINGS

Date Order or
Judgment Noted

Ctroom & shall be allowed to do sketching of trial proceedings by agreement of counsel & Chief Judge Barrow. Portions of deposition, with cover sheets, marked for Court as pertinent parts shall be deemed received in evidence & all exhibits offered at trial, except en camera exhibits, shall be deemed received in evidence, subject to clarification & motions to strike made in writing. At close of pltf's case, deft. to present proposed findings to Court & at close of deft's case, pltf. to present proposed findings to court erclaim & response to deft's F/F. Deft. to then present response to pltf's proposed findings on counterclaim. En camera exhibits to be introduced separately & en camera hearing to be held early in trial. Pltf. counsel presents copy of Judge Neville's order on privilege. If there are any objections to Report of Master, they should be filed at beginning of trial. Motion for order compelling discovery under R. 37 with respect to Telex's demand for document inspection granted. Deft's motion for an order compelling production of documents & counter motion filed by pltf. each granted. Any response of pltf. to deft's motion for order granting leave to serve requests for admissions should be stipulated to. Motion is denied without prejudice. Opening statements limited to 1 hour per side. Court recessed until 4:00 p.m. for an en camera hearing. (4:00 P.M.) Court in session for en camera hearing. Court holds that only one counsel on each side is to examine each witness. Pltf. to file motion for modification of PT order for purpose of adding additional witness & for extension of discovery. Deft. to file response thereto. Parties to file stipulation as to equitable relief. Question of en camera issues discussed. Exhibits to be separated into en camera group & those open to public & shall be introduced in gross. 5:40 P.M. Court adjourned to 9:15 A.M., 4-16-73 for non-jury trial. (ASC-J)(Larry Marks, Bruce R. Tiffany - CSR's)hm

4-16-73 Errata to IBM's trial brief, filed. hm

4-16-73 Brief of Telex in response to IBM's general objections to Telex's trial exhibits, filed. hm

4-16-73 Dep. of Jerry Dale Johnson, filed (3 vols. w/exhibits)g

4-16-73 Dep. of Raymond Terry Sells, filed (5 vols. w/exhibits)jj

4-16-73 Dep. of Bruce R. Becker, filed (4 vols. w/exhibits)jj

4-16-73 Dep. of Philip E. Deck, filed (5 vols. w/exhibits)jj

4-16-73 Dep. of F. Donald Ventura, filed (7 vols. w/exhibits)jj

4-16-73 Dep. of Anthony Prieto, filed (2 vols. w/exhibits)jj

4-16-73 Dep. of John F. Kevill, filed (4 vols. w/exhibits)jj

4-16-73 Dep. of Brigitte de Saint Phalle, filed (1 vol. w/exhibits)jj

4-16-73 Dep. of Shanlin Hou, filed (6 vols. w/exhibits)jj

4-16-73 Dep. of John A. Kerr, filed (4 vols. w/exhibits)jj

4-16-73 Dep. of Thomas Vincent Learson, filed. (13 vols., w/exhibits)g

4-16-73 Dep. of Robert J. Pickle, filed. (11 vols. w/exhibits)g

4-16-73 Dep. of James C. Williamson, filed. (5 vols. w/exhibits)g

4-16-73 Dep. of John G. Mascho, filed. (6 vols. w/exhibits)g

4-16-73 Dep. of Henry D. Strunk, filed. (6 vols. w/exhibits)g

4-16-73 Dep. of Trevor David Sullivan, filed. (6 vols. w/exhibits)g

4-16-73 Dep. of Robert J. Woods, filed. (1 vol.)w/exhibits)g

4-16-73 Dep. of L. E. Marcum, filed. (1 vol.)g

4-16-73 Dep. of Robert J. Hancock, filed. (4 vols. w/exhibits)

(over)

DATE	PROCEEDINGS	Date Order or Judgment Noted
4-16-73	Case called for non-jury trial. Parties present and announce ready for trial. Opening statements made. Pltf's witness G. Harry Ashbridge sworn and testifies. 5:10 p.m. Court recessed until 9:30 a.m. 4-17-73. (ASC-J)hm (Larry Marks, Bruce R. Tiffany, Earl Anderson - CSR's)	
4-17-73	Dep. of Bethel O'Neal Glover, filed. (5 vols. w/exhibits) jj	
4-17-73	Errata identified by IBM for transcript of April 16, 1973, filed. ds	
4-17-73	Supplemental memorandum to IBM's preliminary memorandum of law regarding its general objections to Telex's trial exhibits, filed. ds	
4-17-73	Trial continued with continuation of testimony of pltf's witness G. Harry Ashbridge. Charts used by pltf. are received as purported summaries only and not as exhibits. Court states that any exhibits marked that are discussed with a witness shall be deemed offered & admitted, subject to forms of objections as set out by the Court. (5:00 P.M.) Court recessed until 9:30 a.m. 4-18-73. (ASC-J)hm	
4-18-73	Dep. of Alonzo A. Wilson, filed. (5 Vols., w/exhibits)v	
4-18-73	Dep. of James E. Bledig, filed. (2 vols., w/exhibits)g	
4-18-73	Dep. of Daniel I. Murphy, filed. (1 vol., w/exhibits)g	
4-18-73	Dep. of Jesse A. Simmons, filed. (5 vols., w/exhibits)g	
4-18-73	Telex Memorandum in Regard to when Evidence may be received in camera, filed. jj	
4-18-73	Trial continued with cross examination of pltf's witness G. Harry Ashbridge. Deft's oral motion to strike pltf's chart #1 is denied. (5:00 P.M.) Court recessed until 9:30 a.m. 4-19-73. (ASC-J)hm (Larry Marks, Bruce R. Tiffany, Earl Anderson, William L. Belkengren-CSR's)	
4-19-73	Motion of pltf's. to amend final pretrial order, w/brief in support thereof, filed. rm	
4-19-73	Trial continued with testimony of G. Harry Ashbridge. Pltf's witness Edward Robert Grant sworn & testifies. Pltf. to produce backlog report if it is in existence to tie in with Pltf's Charts 21 & 22. (5:00 P.M.) Court recessed until 9:30 a.m. 4-20-73. (ASC-J)hm	
4-20-73	Deposition of Alvin KRAKOW, filed. v (1 Vol., w/ 2 boxes of exhibits)	
4-20-73	Depo. of B.O. Evans, filed. (3 Vol.s)v	
4-20-73	Depo. of John E. Fox, filed. (2 Vol.s)v	
4-20-73	Depo. of Bernard J. Greenblott, filed. (2 Vols.)v	
4-20-73	Depo. of Richard R. Shelton, filed. (3 Vol.s)v (& exhibits)	
4-20-73	Depo. of Daan Van Alderwerelt, filed. (5 Vol.s)v (& exhibits)	
4-20-73	Depo. of Max E. Femmer, filed. (3 Vol.s)v	
4-20-73	Order amending final pretrial order, filed. (ASC-J)hm	
4-20-73	Trial continued with testimony of pltf's witness Edward Robert Grant and copy of deposition of Henry Cooley received in evidence. Deposition of Otis S. Page received in evidence. Pltf's exhibits 1 thru 664 offered & received with proviso that machines may be replaced with pictures, and that pltf's exhibits 102,110A,110B,221,253,254,259,496, 499 & 508 are received in camera for a later in camera hearing. Clerk directed to seal said exhibits. (1:00 P.M.) Court recesses until 9:30 a.m. 4-23-73. (ASC-J)hm	

(continued)

DATE	PROCEEDINGS	Date Order or Judgment Noted
4-23-73	Plaintiffs' motion to amend final pretrial order to add an additional designated trial witness, filed. g	
4-23-73	Memorandum in support of motion to amend final pretrial order to add an additional witness, filed. g	
4-23-73	Depo. of Henry E. Cooley, filed. (11 Vols.) v	
4-23-73	Dep. of Frank T. Cary, filed. (3 vols.)g	
4-23-73	Dep. of J. G. Powers, filed. (2 vols.)g (& exhibits)	
4-23-73	Dep. of August Kenneth Pattin, Jr. (1 vol.)g	
4-23-73	Dep. of Roy C. Rysdon, filed. (1 vol.)g	
4-23-73	Dep. of S. L. Reed, Jr., filed. (3 vols.)g (& exhibits)	
4-23-73	Dep. of F. G. Rodgers, filed. (2 vols.)g	
4-23-73	Dep. of Richard K. Wilmer, filed. (1 vol.)g	
4-23-73	Dep. of Henry Bardsley, filed. (1 vol.)g	
4-23-73	Dep. of Gerald Findley, filed. (1 vol.)g	
4-23-73	Dep. of Jack D. Kuehler, filed. (1 vol.)g (& exhibits)	
4-23-73	Dep. of A. Arthur F. Collins, filed. (1 vol.)g	
4-23-73	Dep. of Alexander C. Haskell, filed. (1 vol.)g	
4-23-73	Dep. of Wayne D. Winger, filed. (3 vols.)g (& exhibits)	
4-23-73	Dep. of Eugene Arnold Moore, filed. (1 vol.)g	
4-23-73	Dep. of Thomas Lloyd Evans, Jr., filed. (1 vol.)g	
4-23-73	Dep. of Merl T. Hague, filed. (3 vols.)g	
4-23-73	Dep. of Gerard Fassig, filed. (6 vols.)g	
4-23-73	Dep. of H. Dale Wyngarden, filed. (4 vols.)g	
4-23-73	Dep. of John Mason Harker, filed. (3 vols.)g	
4-23-73	Dep. of Thomas S. Mattimore, filed. (1 vol.)v (& exhibits)	
4-23-73	In conference held in chambers prior to trial, pltf's motion to amend final pre-trial order to add an additional designated trial witness is granted. <u>Trial continues</u> with deft's offer of exhibits D43 thru D1299 & said exhibits are so received in evidence. Testimony of Edward Grant continued. Parties directed to furnish summary cover sheets for each deposition offered into evidence & summaries to be attached to front page of deposition. Pltf's witness Richard A. Whitcomb sworn and testifies. (5:00)P.M.) Court recessed until 9:30 a.m. 4-24-73. (ASC-J)hm	
4-24-73	Deft's Notice of Deposition, filed. jj	
4-24-73	Return on Subpoena served personally upon Floyd L. Walker & Associates 4-24-73, filed. jj	
4-24-73	<u>Trial continued</u> with testimony of Richard A. Whitcomb. (5:05 P.M.) Court recessed until 9:30 a.m. 4-25-73. (ASC-J)hm	
4-25-73	Telex Response to IBM's Trial Brief, filed. v	
4-25-73	Depo. of Gary Schneider, filed. v (1 vol., w/exh.)	
4-25-73	Depo. of Robert W. Farrell, filed. v (1vol., w/exh.)	
4-25-73	Depo. of Alan Rosenfeld, filed. v (1vol., w/exh.)	
4-25-73	Depo. of James F. Welch, filed. v (1 vol., no exh.)	
4-25-73	Depo. of Richard David Moore, filed. v (1vol., no exh.)	
4-25-73	<u>Trial continued</u> with testimony of Richard A. Whitcomb and Berton Michael Hochfeld. (5:03 P.M.) Court recessed until 9:30 a.m. 4-26-73. (ASC-J)hm	

(over)

DATE	PROCEEDINGS	Date Order or Judgment Noted
4-26-73	Continued Depo. of Bruce V. Swearingen, filed. (vol.s 6 & 7, w/exh) v	
4-26-73	Trial continued with testimony of Berton Michael Hochfeld. (5:30 P.M.) Court recessed until 9:30 a.m. 4-27-73. (ASC-J)hm	
4-27-73	IBM Notice of Motion and Motion for an Order Compelling the Production of Backup Material to Certain Charts with Brief in Support attached, filed. v	
4-27-73	Order amending final pretrial order, filed. (ASC-J)hm	
4-27-73	Trial continued with testimony of Berton Michael Hochfeld and Jack James. (5:05 P.M.) Court recessed until 9:30 a.m. 4-30-73. (ASC-J)hm	
4-30-73	Depo. of Gary Schneider, Vol. 1, no exh., taken by Esquire Reporting Co. in New York, filed. v	
4-30-73	IBM's cross designations of portions of depositions in response to Telex's designations, filed. (See depositions for cross designations with cover sheets)hm	
4-30-73	Trial continued with testimony of Jack James and James W. Martin. (5:01 P.M.) Court recessed until 9:30 a.m. 5-1-73. (ASC-J)hm (Larry Marks, William Belkengren, John Ledford-CSR's)hm	
5-1-73	Trial continued. Designated portions of depositions submitted to Court and filed hereinafter are received in evidence. (See designated list for depositions received). Trial continues with testimony of James W. Martin, John Maytubby Bonham and James R. Heavener. (5:06 P.M.) Court recessed until 9:30 a.m. 5-2-73. (ASC-J)hm	
5-1-73	IBM Memorandum supporting dismissal under Rule 41(b) for failure to define or prove a relevant market, filed. hm	
5-2-73	Notice of Telex Motion to Strike Depositions offered by IBM, filed. v	
5-2-73	Telex Motion to strike depo.s offered by IBM, filed. v	
5-2-73	Brief in support, filed. v	
5-2-73	Designated Markings by parties of depositions, filed. v -black notebook. (All received in evidence except for notations thereon)	
5-2-73	IBM supplemental memorandum supporting dismissal under Rule 41(b) for failure to define or prove a relevant market, filed. hm	
5-2-73	Pltfs' memorandum in opposition to IBM's motion to dismiss under Rule 41(b), FRCP, for the pltfs' failure to define or prove a relevant market, filed. hm	
5-2-73	Trial continued with testimony of pltfs' witnesses James R. Heavener and Stephen James Jatras. (5:15 p.m.) Court recessed until 9:30 a.m. 5-3-73. (ASC-J)hm (In morning conference in Chambers prior to trial, paragraph 1 of Telex's motion to strike depositions granted and ruling on paragraph 2 reserved - (See minute on back page of copy of Telex motion to strike depositions offered by IBM). (ASC-J)hm	
5-3-73	IBM's response to pltfs' memorandum in opposition to IBM's Rule 41(b) motion to dismiss, filed. hm	
5-3-73	Depo. of Gary Schneider (signed copy) of Vol. I, no exh., filed. v	

(cont)

DATE	PROCEEDINGS	Date Order or Judgment Noted
5-3-73	Deposition of Paul W. Emery, II, filed. jj	
5-3-73	Conference held in chambers prior to trial. IBM's motion for an order compelling the production of backup material to certain charts now moot, by agreement of parties. Pltf's motion to strike depositions granted in toto, by agreement of parties (see minute on back page of copy of Telex motion by ASC). Trial continued with testimony of pltf's witness Stephen James Jatras. Pltf. rests. Deft's oral motion for judgment and dismissal pursuant to Rule 41(b) is denied. Deft. presents case in chief. Deft's witness Dr. Cuthbert C. Hurd sworn and testifies. (5:12 P.M.) Court recessed until 9:30 a.m. 5-4-73. (ASC-J)hm	
5-4-73	Trial continued with testimony of deft's witnesses Daniel W. Jerbasi, James F. Welch, Raymond L. Custard and Neal Andrew Sullivan, Jr. (5:10 P.M.) Court recessed until 9:30 a.m. 5-7-73. (ASC-J)hm	
5-7-73	IBM's Motion to Amend Final Pretrial Order to Substitute a Designated Trial Witness, filed. v	
5-7-73	Memorandum in Support, filed. v	
5-7-73	Depo. of M.T. Allman, filed. v (1 Vol., No Exh.)	
5-7-73	Depo. of Gregg C. Hiatt, filed. v (1 Vol., No Exh.)	
5-7-73	Depo. of James Kenneth Picciano, filed. v (1 Vol., No Exh.)	
5-7-73	Depo. of Dale Allen Richter, filed. v (3 Vol.s, No Exh.)	
5-7-73	Conference held in chambers prior to trial and IBM's motion to amend final pretrial order to substitute a designated trial witness is granted (see Judge's handwritten order on copy of motion filed this date). Trial continued with testimony of deft's witnesses Cuthbert C. Hurd, William Edward Terry and Frank Miller Heinzmann, Jr. (5:07 P.M.) Court recessed until 9:30 a.m. 5-8-73. (ASC-J)hm (John Ledford, Larry Lindberg, Lance Bjella-CSR's)	
5-8-73	Trial continued with testimony of deft's witnesses, Frank M. Heinzmann, David Hyde Hill and Francis G. Rodgers. (5:12 P.M.) Court recessed until 9:30 a.m. 5-9-73. (ASC-J)hm	
5-9-73	Trial continued with testimony of deft's witness Francis G. Rodgers. (5:00 P.M.) Court recessed until 9:30 a.m. 5-10-73. (ASC-J)hm	
5-10-73	Trial continued with testimony of deft's witnesses Francis G. Rodgers and Bob Overton Evans. (5:00 P.M.) Court recessed until 9:30 a.m. 5-11-73. In conference prior to trial, at request of deft. & no objection given by pltf, Clerk is directed to sequester exhibits 17 & 19 to Mr. Cianfrone's deposition. (ASC-J)hm	
5-11-73	Trial continued with testimony of deft's witnesses: Bob Overton Evans, Daniel Jerbasi recalled, Richard Keith Wilmer and Forrest Lee Wade. (5:23 P.M.) Court recessed until 9:30 a.m. 5-14-73. (ASC-J)hm	
5-14-73	Offer of proof on IBM's development of the voice coil actuator, filed.hm	
5-14-73	Trial continued. The deft's offer of those answers of pltf. to request for admissions not stated in stipulation, are received in evidence, and deft. counsel to submit written offer at later time. Deft's witness (over)	

DATE	PROCEEDINGS	Date Order or Judgment Noted
	Franklin M. Fisher sworn and testifies. (5:35 P.M.) Court recessed until 9:30 a.m. 5-15-73. (ACS-J)hm (Larry Marks, Joe D'Amato, Lance Bjella-CSR's)	
5-15-73	<u>Trial continued</u> with testimony of deft's witness Frank Taylor Cary. (5:20 p.m.) Court recessed until 9:30 a.m. 5-16-73. (ASC-J)hm (Larry Marks, Lance Bjella, Earl Anderson, Joe D'Amato-CSR's)	
5-16-73	Telex's Objection to IBM's Offer of Proof Via the Witness, Richard Wilmer, filed. v	
5-16-73	In conference held prior to trial, at deft's request & no objection offered by pltf., it is ordered that deft's exhibits 1605 and 1606 are received in camera. <u>Trial continued</u> . Pltf's objection to IBM's offer of proof via the witness, Richard Wilmer, is sustained. Deft's witnesses sworn and testify: Gerald Ivan Findley, Thomas Lloyd Evans, Jr., Roy Charles Rysdon, James Kenneth Picciano, Richard David Moore and George R. Ahearn. (5:00 P.M.) Court recessed until 9:30 a.m. 5-17-73. (ASC-J)hm (Marks, Bjella, D'Amato-CSR's)	
5-17-73	<u>Trial continued</u> with testimony of deft's witnesses Sidney Davidson and George R. Ahearn. (5:00 P.M.) Court recessed until 9:30 a.m. 5-18-73. (ASC-J)hm	
5-18-73	<u>Trial continued</u> with testimony of deft's witnesses George R. Ahearn, Jack D. Kuehler and Jack S. James. (5:10 P.M.) Court recessed until 9:30 a.m. 5-21-73. (ASC-J)hm	
5-21-73	Depo. of Forrest Lee Wade, filed. v -1 vol.	
5-21-73	Depo. of Ron Brentano, filed. v -1 vol.	
5-21-73	Depo. of Wanda Walker, filed. v -1 vol.	
5-21-73	Depo. of Alfred Dickie Williams, filed. v -1 vol.	
5-21-73	Depo. of John Bryant Roberts, filed. v -1 vol.	
5-21-73	Depo. of Martin Beauford, filed. v -1 vol.	
5-21-73	Depo. of Ed Ingram, filed. v -1 vol.	
5-21-73	Pltf's answers to interrogatories addressed to pltf's experts, filed in open court. hm	
5-21-73	<u>Trial continued</u> with testimony of deft's witnesses Jack S. James and Wayne D. Winger. <u>Deft. rests</u> . Pltf. presents witnesses in defense of counterclaim: Howard L. Gruver. (5:00 P.M.) Court recessed until 9:30 a.m. 5-22-73. (ASC-J)hm (Marks, D'Amato, Tiffany-CSR's)	
5-22-73	Pltf's answers to interrogatories addressed to pltf's experts, filed.rm	
5-22-73	Stipulation regarding admission into evidence of certain documents, filed. (ASC-J)hm	
5-22-73	<u>Trial continued</u> with testimony of pltf's witnesses in defense of counterclaim: Howard L. Gruver, P. E. Deck, Martin Henry Beauford, Desmond Jones and S. J. Jattras. (5:00 P.M.) Court recessed until 9:30 a.m. 5-23-73. (ASC-J)hm	
5-23-73	<u>Trial continued</u> with testimony of pltf's witnesses in defense of counterclaim: Eddie R. Ingram, Silvio Cianfrone, Harold S. Yang, Ronald Eldon Brentano, Alfred Dickie Williams and John Bryant Roberts. Pltf's rebuttal witnesses: David Leroy Bangle. (4:53 P.M.) Court recessed (cont)	

DATE	PROCEEDINGS	Date Order or Judgment Noted
	until 9:30 a.m. 5-24-73. (ASC-J)hm	
5-24-73	Trial continued with testimony of pltf's rebuttal witnesses: David Leroy Bangle. Deft's oral motion to strike pltf's exhibits 734 & 735 sustained as to Page 11 of Ex. 734 and Page 12 of Ex. 735. Clerk directed to draw line across said pages. Trial continues with testimony of pltf's rebuttal witnesses: Edward Grant, Robert D. Lundgren, Thomas L. Holton and Dennis C. Mueller. <u>Both parties rest.</u> Court recessed for post-trial conference until 2:30 p.m. 5-25-73 to discuss motions to strike, findings and date for oral arguments. (ASC-J)hm	
5-25-73	Deft's cross reference list for deposition exhibits and trial exhibits, filed. hm	
5-25-73	Deposition of Richard J. Charlton, filed (copy accepted in lieu of original)(6 vols.)hm	
5-25-73	IBM's motion to strike certain of pltf's trial exhibits, filed. (copy accepted in lieu of original per ASC)hm	
5-25-73	<u>Post-trial conference held.</u> Copy of Charlton's deposition to be filed with Clerk in lieu of original. By agreement of counsel, photographs of large exhibits & charts to be substituted for actual physical exhibits & large charts. By agreement of counsel & order of the Court, the unsigned Davenport deposition is accepted in lieu of signed copy. Deft. to file proposed F/F & C/L by 5-29-73; pltf. by 6-5-73; any response by deft. by 6-15-73. Court sets June 18 & 19 for oral arguments. Parties to submit proposed form of judgments morning of 6-18-73 Leave granted for withdrawal of Judge's copies of answers to request for admissions. Arguments made on deft's motion to strike certain of pltf's trial exhibits: motion is granted as to Appendix A over no objection offered by Pltf; motion is waived by deft. as to Appendix B; motion is granted as to Item C in motion, so pltf's exhibits 1A, 97, 98, 351A, 351B, 351D, 351E, 354, 364A, 377B, 483, 483A-S, 474, 475 and 476 are stricken. Deft. allowed to submit exhibits 1855A & 1855B and they are received in evidence. (3:05 P.M.) Court recessed until 9:30 a.m. 6-18-73. (ASC-J)hm (Larry Marks-CSR)	
5-25-73	Trial exhibits and charts filed. hm	
5-29-73	IBM's Proposed Antitrust Findings and Conclusions, filed. hm	
5-29-73	IBM's Proposed Counterclaim Findings and Conclusions, filed. hm	
6-8-73	Telex's proposed findings of fact and conclusions of law relating to Telex's antitrust claims, filed. rm	
6-8-73	Findings of fact requested by Telex respecting the IBM counterclaim for unfair competition, filed. rm	
6-8-73	Findings of fact requested by Telex respecting the IBM counterclaim for copyright infringement, filed. rm	
6-15-73	IBM's response to some of Telex's proposed F/F and C/L relating to Telex's antitrust claims, filed. hm	
6-15-73	Plaintiffs' amended proposed conclusions of law, filed. hm	
6-18-73	Trial continued with final arguments. (5:32 P.M.) Court recessed until 9:30 a.m. 6-19-73. (ASC-J)(Larry Marks, Earl Anderson, Bruce Tiffany+CSR's)hm (over)	

DATE	PROCEEDINGS	Date Order or Judgment Noted
6-18-73	Defendant's proposed judgment on decision by the court, filed in open court. hm	
6-19-73	Trial continues with closing arguments. Court takes ruling under advisement and will enter final F/F, C/L and Judgment. Certain questions asked by Court of counsel. Case submitted to Court for decision. (3:25 p.m.) Court recessed. (ASC-J)(Larry Marks, Anderson, Tiffany-CSR's)hm	
6-21-73	Plaintiffs' proposed judgment, filed. hm	
7-16-73	Plaintiff's Motion to Allow Attorneys Fees, filed. v	
7-16-73	Brief in Support, filed. v	
7-27-73	Affidavit of Marvin W. Willits, filed. hm	
9-17-73	Findings of fact and conclusions of law, filed. (ASC-J)hm	
9-17-73	Judgment and decree, filed and entered, that pltfs. recover judgment from IBM in sum of \$352.5 million, together with costs and attorneys' fees, the amt. of which to be reserved for future determination; that IBM is enjoined and restrained as to five different issues; that IBM shall recover from Telex Corp. & Telex Computer Products, Inc., the sum of \$21,913.776, with costs and attorneys' fees in connection with its copyright claim; that Telex & Telex Computer Products are enjoined as to five different issues; that Clerk is directed to enter final judgment on all issues except as to amts. of attys' fees, which shall be covered by supplemental judgment, there being hereby granted a stay of execution until the disposition of post-trial motions or until the court otherwise orders; that Court sets hearing on 10-16-73 at 10:00 a.m. for consideration of attys' fees and motions filed within 10 days of entry of this judgment for correction of F/F, C/L & judgment or for a new trial. (ASC-J)hm	
9-17-73	Pltfs' bill of costs, filed. hm (Hearing set before Clerk 9-24-73 at 9:30 a.m.)	
9-20-73	Application and order for extension of time, filed, continuing hearing on bill of costs until 10-12-73 at 9:30 a.m. (JCS-Clerk)hm	
9-20-73	Application re extension of time within which to file bill of costs of deft., filed. hm <i>oto 9</i>	
9-25-73	Motion of pltf. to set-off counterclaim judgment against Telex anti-trust judgment, w/brief in support thereof, filed. rm	
9-25-73	Motion of pltf. to fix time for completion of foreign discovery, to fix time for filing final pretrial order, and to set trial date for foreign issues, w/brief in support thereof, filed. rm	
9-26-73	Order correcting clerical errors pursuant to rule 60(a) FRCP, filed. (ASC-J)hm	
9-26-73	Attorney's Affirmation of Service, filed. jj	
9-26-73	IBM's Mtn. Pursuant to Rules 52(b), 59(a), 59(e) & 60(a) of Fed. Rules of Civil Procedure, filed. jj <i>copy sent to Judge by Clerk</i>	
9-26-73	Attachment to IBM's motion pursuant to Rules 52(b), 59(a), 59(e) & 60(a) of the FRCP, filed. hm	

DATE	PROCEEDINGS	Date Order or Judgment Noted
9-27-73	Order filed that time for defendant to file its Bill of Costs be lengthened to 5 days after Septem. 27, 1973 or until Oct. 2, 1973. (ASC-J)h	
9-28-73	Notice of motion for a stay of injunctive relief, filed. hm	
9-28-73	Memorandum in support of IBM's motion for a stay of injunctive relief, filed. hm	
Vol. 10 begins 10-2-73	Telex's Resp. to IBM's Mtn. for Stay of Final Injunctions Pending Appeal, filed. jj	
10-2-73	IBM's bill of costs in the amt. of \$573,252.93, filed. hm (Hearing set before Clerk on 10-12-73 at 9:30 a.m.)	
10-5-73	Amendment to Telex's response to IBM's motion for stay of final injunctions pending appeal, filed. hm	
10-9-73	Telex's response to IBM's motion to amend the judgment, findings of fact and conclusions of law, filed. hm	
10-9-73	Order, filed, that computation of antitrust damages against IBM involves substantial error & that deft's motion to amend findings, conclusions & judgment, or in the alternative for a new trial on issue of damages is hereby granted <u>sua sponte</u> ; and that action in this respect will be determined at hearing on 10-16-73 at 10:00 a.m., together with other matters already scheduled. (ASC-J)hm (copies mailed counsel)	
10-9-73	Amendment to pltf's motion to allow attorney's fees, filed. hm	
10-10-73	Order, filed, directing parties to submit answers to certain questions prior to 10-16-73 hearing & to be prepared to argue said questions at hearing. (ASC-by JCS-Clerk)hm (copies delivered)	
10-11-73	IBM's response to Telex's motions to "set-off" the IBM judgment against the Telex judgment, for attorneys' fees & for setting a trial date on the foreign issues, filed. hm	
10-11-73	IBM's reply memorandum on its motion for stay of injunctive relief pending appeal, filed. hm	
10-11-73	Notice of motion, filed. hm	
10-11-73	Memorandum in support of IBM's motion for reasonable attorneys' fees in connection with its copyright claims, filed. hm	
10-11-73	Attorney's affirmation of service, filed. hm	by I.B.M.
10-12-73	Notice of motion seeking certificate pursuant to 28 U.S.C. § 1292(b) filed. h	
10-12-73	Memorandum in support of IBM's Motion seeking a certificate pursuant to 28 U.S.C. § 1292 (b) filed by plaintiff. h	
10-12-73	I.B.M.'s Response to the Court's October 10, 1973 Order filed. h	
10-12-73	Attorneys's Affirmation of service filed by Truman Rucker. h	
10-12-73	Pltfs's Bill of Costs taxed in the amt. of \$189,568.38 before Clerk. hm	
10-12-73	Deft's Bill of Costs taxed in the amt. of \$169,446.69 before Clerk. hm	
10-12-73	Application for leave to present memorandum of the Computer Industry Association in opposition to a stay of injunctive relief as amicus curiae, filed. hm	
10-15-73	Telex's memorandum pursuant to the Court's Oct. 10th order, filed. hm	
10-15-73	IBM's reply memorandum to the Telex response concerning IBM's motion to amend the Court's findings, filed. hm	(over)

DATE	PROCEEDINGS	Date Order or Judgment Noted
10-15-73	IBM notice of motion to prevent Telex from frustrating the Court's judgment and from disseminating IBM trade secrets and confidential information; filed. hm	
10-15-73	IBM's response to application for leave to present memorandum of the Computer Industry Association in opposition to a stay of injunctive relief as amicus curiae, filed. hm	
10-15-73	Affidavit of Thomas D. Barr, filed. hm	
10-15-73	Attorney's affirmation of service, filed. hm	
10-16-73	Case called for hearing. Mr. Barr moves for admission of Nicholas Katzenbach and Frederick A. O. Schwarz, Jr. and Court so admits for purposes of this hearing. Arguments made on motions. Pltfs' motion to set-off counterclaim judgment against the Telex antitrust judgment is denied. On question of quantification of damages, Court grants an amendment to F/F & C/L & Judgment, leaving the amount of damages to be redetermined at a subsequent hearing or to grant a motion for new trial on the subject of damages only. Application for leave to present memorandum of the Computer Industry Assn. in opposition to a stay of injunctive relief as Amicus Curiae is denied. Court recessed until 10:00 a.m. 10-17-73. (ASC-J)hm (Larry Marks, John Ledford, Bruce Tiffany, Earl Anderson-CSR's)	
10-17-73	Notice of motion by IBM, filed. hm (for an order purs. to FRCP 54(d)	
10-17-73	Affidavit of Truman B. Rucker, filed. hm	
10-17-73	Notice of appeal by Telex of that part of final judgment entered 9/17/73 whereby def. IBM is granted recovery from pltf. of \$21,913,776, etc., filed. rm (copies to USCA & counsel) (supersedeas bond waived by deft. - per ASC-J)hm	
10-17-73	Bond for costs on appeal (\$250 surety), filed. rm	
10-17-73	Hearing continued. Statements made by pltf. counsel requesting Court to retain jurisdiction of amts. of judgment on antitrust & counterclaim portions & stay execution of judgment on counterclaim pending a Certificate under 1292(b), stating pltf. unable to post supersedeas bond, and leaving basic problem of liability for Court of Appeals. Court directs an in camera hearing in Chambers on question. Statements made on IBM's motion for a new trial with respect to injunctive relief. Deft. counsel states that IBM will not enforce judgment on counterclaim until there is a final order from the final appeal with respect to counterclaim. Court directs parties to file drafts of revisions as to injunctive relief in decree and judgment by 10-18-73. (5:08 p.m.) Court recessed until 10:00 a.m. 10-18-73. (Hearing held in Chambers with counsel & question of opening record, granting a new trial on issue of damages & Certification discussed.) (ASC-J)hm	
10-18-73	Pltf's notice of motion, filed. hm	
10-18-73	Pltfs' motions to alter and/or amend the Court's order and judgment of October 16, 1973, filed. hm	
10-18-73	Telex's memorandum in support of motion to alter and/or amend judgment of October 16, 1973, filed. hm	
10-18-73	Deft's proposed revisions on questions of injunctive relief, filed. hm	
10-18-73	Conference held in chambers prior to hearing in open court. (11:10 a.m.) Court in session. Hearing continued. Pltf. requests to withdraw without prejudice motion to fix time for completion of foreign discovery, to (continued)	

DATE	PROCEEDINGS	Date Order or Judgment Noted
10-18-73	fix time for filing a final pretrial order and, to set a trial date for foreign issues over no objection by deft. & Court grants withdrawal without prejudice. Pltfs' motion to allow attorneys' fees submitted to Court and no hearing necessary. IBM's motion for reasonable attorneys' fees in connection with its copyright claims agreed to by parties at \$3,000.00. Review of bills of costs and IBM's motion for an order pursuant to FRCP 54(d) modified in that taxable costs to each party are set at \$1.00 and parties agree to amts. (11:30 a.m.) Court recessed until 10:00 a.m. 10-19-73. Parties confer in chambers on question of injunctive relief for rest of day. (ASC-J)hm	
10-18-73 10-18-73	Telex's response to IBM's notice of motion for an order, filed. hm Affidavit of Philip E. Deck, filed. hm	
10-19-73	IBM's opposition to Telex's motion to amend the counterclaim findings and conclusions, filed. hm	
10-19-73	Petition of Transamerica Computer Company to be heard as amicus curiae in connection with post-judgment motions, filed. hm	
10-19-73	<u>Hearing continued.</u> IBM's motion to correct, amend, alter F/F & Judgment or for a new trial under advisement. IBM's motion for a stay of injunctive relief held in abeyance pending final amendments to F/F and Judgment. IBM's motion seeking Certificate pursuant to 28 USC 1292(b) will be become moot if final judgment on all issues is filed; otherwise will be left pending. IBM's motion to prevent Telex from frustrating the Court's judgment and from disseminating IBM trade secrets and confidential information passed pending discovery. Pltfs' motions to alter and/or amend the Court's order and judgment of 10-16-73 now moot. Petition of Transamerica Computer Co. to be heard as amicus curiae in connection with post-judgment motions argued by Mr. Richard J. Lucas, and denied by the Court. Court takes under advisement amendments to F/F presented by counsel. Deft's motion to alter or amend judgment and decree as to amount of damages awarded Telex is and has heretofore been granted and Court will enter a final judgment after filing of briefs by parties on question of quantification by 10-29-73. IBM's motion for a new trial on issue of damages is denied. IBM's motion for modification of injunctive relief taken under advisement and final ruling on said issue to be included in final judgment. Court will include amount of pltfs' attys' fees in final judgment. Deft's atty. fees pertaining to copyright claims heretofore agreed to by parties. Upon filing of final judgment, case will be in a position to be appealed on all issues without an interlocutory appeal necessary. (11:16 a.m.) Court adjourned subject to call. (ASC-J)hm	
10-26-73	Letter request from pltf. atty. for certification of transcript, filed. hm	
10-26-73	Telex's memorandum on quantification of Telex's competitive advantage, filed. hm	
10-26-73	Telex's supplemental memorandum, filed. hm	
10-29-73	Attorney's Affirmation of Service, filed by the Defendant. v	
10-29-73	IBM's Memorandum in Response to the Court's Request, filed. v	
10-29-73	Petition of Electronic Memories & Magnetics Corp. to file brief as amicus curiae in connection with post-judgment motions, filed. hm	

(over)

DATE	PROCEEDINGS	Date Order or Judgment Noted
10-29-73	Motion for leave to file brief for Memorex Corp. as amicus curiae in support of the Telex Corp. and Telex Computer Products, Inc., filed. hm	hm
10-29-73	Affidavit of Laurence L. Spitters in support of Memorex Corp's motion for leave to file a brief as amicus curiae in support of the Telex Corp. and Telex Computer Products, Inc., filed. hm	hm
10-30-73	IBM's response to motion for leave to file brief for Memorex Corp. as amicus curiae in support of the Telex Corp. & Telex Computer Products, Inc., filed. hm	hm
10-31-73	Notice of appeal by IBM from judg. for this def. on its counterclaim entered 9/17/73, filed. rm (copies to USCA & Counsel)	<i>Walker, McDermott & Savage</i>
10-31-73	Cost bond on appeal - (\$250 cash), filed - rm entered in error	
11-1-73	Attorney's affirmation of service, filed. hm	hm
11-2-73	Telex's reply to IBM's memorandum of 10-29-73, filed. hm	hm
11-5-73	Denial of motion for leave to file brief as amicus curiae of Electronic Memories and Magnetics Corporation, filed. (ASC-J)hm	hm
11-5-73	Denial of motion for leave to file brief as amicus curiae of Memorex Corporation, filed. (ASC-J)hm	hm
11-7-73	Response to Telex reply memorandum of 11-2-73, filed. hm	hm
11-7-73	Affidavit of service by mail, filed. hm	hm
11-8-73	IBM's cost bond on appeal (\$250 cash), filed. hm	hm
11-10-73	Amendments to findgs of fact, filed. hm	hm
11-10-73	Amendments to conclusions of law, filed. hm	hm
11-10-73	Amended judgment and decree, filed and entered, that pltfs. recover judgment from deft. IBM in the sum of \$259.5 million, with attys' fees in the sum of \$1.2 million and certain injunctions; and deft. IBM shall recover from pltfs. the total sum of \$21,913.776, with attys. fees for the copyright infringement in the sum of \$3,000 and costs in accordance with stipulation heretofore made, with certain injunctions. (ASC-J)hm	hm
(3:30 p.m. MST)	Case called for hearing in Salt Lake City, Utah. Pltfs. rep. by Floyd Walker & Dan Berman; defts. rep. by Tom Barr & Nick Katzenbach. En camera hearing held in chambers prior to open hearing. Court delivers amendments to F/F, C/L & Judgment for transmittal to Clerk's office in Tulsa, & filing. Ruling will not be announced until filed in Tulsa at approx. 1:30 p.m. CST, when copies will be made available. Clerk to notify court when judgment is filed. Further hearing is set at 2:00 p.m. MST 11-10-73 for hearing on further motions and stay of injunctive relief pending appeal. Counsel waive any objections to hearing held in Dist. of Utah & to Dep. Clerk of Dist. of Utah being used as minute clerk for any further hearing after date held in Salt Lake City. Counsel agree that all pending motions have been disposed of in record. Any further motions shall be submitted on briefs to Court for ruling with exception of IBM's motion re Digital Equipment Co. & motion as to census. Court recessed. (3:50 p.m. MST) (Ronald Hubbard-CSR)hm	
11-20-73	IBM's notice of appeal from the final judgment in favor of pltfs., filed. hm (copies mailed pltf. counsel & C/C to Clerk, USCA)	hm
11-20-73	Cost bond on appeal in the amt. of \$250.00 cash, filed. hm	hm

(continued)

DATE	PROCEEDINGS	Date Order or Judgment Noted
11-23-73	Transcript of proceedings had on 4-13-73 (pre-trial), filed. hm	
11-23-73	Transcript of proceedings had at non-jury trial in 32 volumes, Apr. 16 thru May 25 and June 18 & 19, filed. hm	
11-23-73	Transcript of conference in Judge's Chambers had on 4-20-73, filed. hm	
11-23-73	Transcript of hearing on motions in 4 volumes, Oct. 16,17,18 & 19, filed. hm	
11-23-73	Transcript of hearing in camera had on 11-9-73 in Salt Lake City, Utah, filed. hm	
11-23-73	Transcript of hearing in open court on 11-9-73 in Salt Lake City, Utah, filed. hm	
11-23-73	Transcript on final hearing on 11-10-73 in Salt Lake City, Utah, filed. hm	
11-23-73	Minute from hearing on 11-10-73 in Salt Lake City, Utah: supersedeas bonds as to both antitrust judgment and counterclaim judgment waived by both parties and stipulation on same to be filed. Motion to stay injunctions filed by IBM denied by Court, but defendant given 10 days to seek a stay as to paragraph 8 of the amended judgment and decree in USCA. (ASC-J)hm	
11-27-73	Pltfs' notice of appeal, filed, from final amended judgment and decree, including both the antitrust judgment & the counterclaim judgment. hm (copies to Barr, Rucker & USCA)	
11-27-73	Bond for costs on appeal in amt. of \$250, filed. hm	
11-29-73	Order denying stay of injunctions, filed and entered, that IBM's request for stay of Paragraph 8 of amended judgment & decree pending appeal is denied; that IBM is granted a temporary stay as to Paragraph 8 for a period of 10 days within which it may seek a stay of said paragraph in the Court of appeals; that IBM's request that Telex be required to post security is denied. (ASC-J)hm (copies mailed counsel)	
11-29-73	Amended order denying stay of injunctions, filed and entered. (ASC-J)hm (copies mailed counsel)	
12-5-73	Stipulation of parties as to supersedeas bond, filed. a	
12-10-73	Notice of cross-appeal by IBM from counterclaim portion of amended judg. & decree entered 11/10/73, filed. rm (copies to USCA, Floyd Walker, Richard McDermott, Daniel Berman & Fred Schwarz)	
12-11-73	Pltfs' notice of cross appeal, filed. hm (copies to USCA, Rucker & Schwarz)	
12-11-73	IBM's notice of motion for an order vacating or modifying the protective order set forth in pre-trial order No. 9, with affidavit, filed. hm	
12-13-73	Case set for hearing in Tulsa on 1-15-74 at 11:30 a.m. (ASC-J)hm	
12-19-73	Stipulation that the entire record in these proceedings shall be retained in the district court, filed. v	
12-26-73	IBM's amended and supplemental notice of motion, filed. hm	
12-26-73	Affidavit of service by mail, filed. hm	
1-3-74	Withdrawal of notice of motion by IBM of motion to prevent Telex from frustrating the Ct's judgment & from disseminating IBM trade secrets and confidential information, filed. hm	
1-3-74	Notice of Telex's application for contempt citation, filed. hm	

(over)

DATE	PROCEEDINGS	Date Order or Judgment Noted
1-3-74	Telex's application for contempt citation, filed. hm	
1-4-74	Digital Equipment Corporation's Opposition to IBM's Motion to Vacate or Modify Protective Order in MDL-18 filed. e	
1-4-74	DEC'S Momorandum in Opposition to IBM's Motion to Vacate or Modify Protective Order in MDL-18 filed. e	
1-4-74	Affidavit of Ansel B. Chaplin, Esq. filed. e	
1-4-74	Affidavit of Edward A. Schwartz, Esq. filed. e	
1-4-74	Certificate of Service filed. e (Ansel B. Chaplin)e	
1-4-74	Certificate of Service filed (John M. Sharp)e	
1-9-74	Memorandum of Sperry Rand Corp. in response to motion by IBM Corp. for an order vacating or modifying the protective order set forth in PT order No. 9, filed. hm	
1-9-74	Affidavit of Harry A. Steinberg, filed. hm	
1-9-74	Certificate of service on above, filed. hm	
1-9-74	Appeal record in form of Certificate and Docket Entries sent to USCA. g	
1-14-74	Memorandum of Burroughs Corp. in opposition to IBM Corp's motion to vacate or modify the protective order governing the use of responses to Rule 31 depositions upon written questions, filed. hm	
1-15-74	Opposition of Honeywell, Inc. to the motion by IBM Corp. for an order vacating or modifying the protective order set forth in PT Order No. 9, filed. hm	
1-15-74	<p>Case called for hearing on IBM's motion for an order vacating or modifying the protective order set forth in pre-trial order No. 9 and Telex's application for contempt citation. Pltf. rep. by Floyd L. Walker & Richard B. McDermott; deft. rep. by Thomas D. Barr, John D. French, Nicholas Katzenbach & Truman B. Rucker. The following attorneys were admitted to the Bar of this Court for this case only: John D. French (IBM); Raymond Carlson (Dept. of Justice); Philip J. Mause (Sperry Rand Corp); Fred D. Turnage (Burroughs Corp); Charles E. Steffey (Honeywell, Inc). John Sharp & Bill Scheurich present & rep. Digital Equipment Corp. Withdrawal of IBM's motion to prevent Telex from frustrating the Court's judgment & from disseminating IBM trade secrets & confidential information, approved by Court. Statements made by Mr. Barr on motion to vacate or modify protective order. Letters from Merrell E. Clark, atty. for The Singer Co.; Richard G. Lareau, atty. for Control Data; & note-o-gram from Bernard Cohen, Pres. of Computer Resale Exchange, Inc. noting no objections to motion, <u>filed in open court</u>. Suggested form of order vacating Judge Neville's protective order presented to the Court by Mr. Barr. Mr. Walker makes statement as to census being part of record on appeal. Attys. for Burroughs Corp, Digital Equip. Corp, Honeywell, Inc. and Sperry Rand Corp. make statements on objections to motion to vacate. Statements made by Raymond Carlson, Atty. for Justice Dept. Court requests counsel for IBM & objecting parties to motion, to frame an order providing for the possibility of the use of the census data in the South. Dist of N.Y. or in other antitrust suits involving IBM,</p>	

(continued)

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	<p>but maintaining the protection of Judge Neville's order until notice to the parties furnishing the confidential information the cognizant Court as to the particular case otherwise orders in relaxation of the protective orders; and to maintain the physical exhibits of census as a part of the record on appeal. Order to be submitted by 9:30 a.m. 1-16-74 and hearing on motion to vacate continued until then. Evidentiary Hearing on pltfs' application for contempt citation held. Opening statements made. Pltfs' exhibits A & Badmitted. Pltfs' witness sworn: David Leroy Bangle. Pltf. rests. Deft's witness sworn: Richard P. Case. Deft's exhibit A admitted Parties rest. Opening statements of pltf. accepted as closing argument. Closing arguments made by deft. Based on evidence given in hearing, Court denies and dismisses pltfs' application for contempt citation & finds there has been insufficient evidence to show that deft. has failed to comply with Sec. 3 of the Decree. Costs are awarded to the Deft. Clerk to prepare order. (8:16 P.M.) Court recessed until 9:30 a.m. 1-16-74. (ASC-J)(Tim Holmes, Lance Bjella, Larry Marks - CSR's)hm</p>	
1-16-74	Order, filed, that pltfs' application for contempt citation should be and is hereby denied and dismissed, & costs are awarded to Deft. (ASC-J)hm (copies delivered)	
1-16-74	Hearing continued in Chambers. Counsel present on 1-15-74 in attendance with exception of Mr. Walker & Mr. Steffey, and present draft of order prepared by IBM and draft prepared by counsel opposing motion to vacate. Parties directed to confer again and redraft a final order, which is subsequently submitted to Court. Court indicates approval, subject to conferring with Judge Neville in Minnesota, and parties to be advised. (1:55 p.m.)(ASC-J)(Tim Holmes, Lance Bjella-CSR's)hm	
1-16-74	Letter, filed, dated 1-15-74 from Judge Philip Neville to Judge Christensen regarding the census. hm (not to be copied)	
1-17-74	Order, filed, that motion to vacate is denied, that protective order is modified as follows: certified copies of census responses shall be transferred by Clerk to U.S. Dist. Court for South. Dist. of N.Y. & to any other court before whom an antitrust action involving IBM is pending upon a request for such transfer by a party to such action, & prepayment of costs of such c/c & transfers; any party making such request to give notice of such intent to use such responses to Digital Equipment, Burroughs, Gen. Tel & Elect. Corp., Honeywell, & Sperry Rand; any party intending to move for an order modifying protective order shall give at least 20 days notice to same above companies, except that this provision not applicable to US vs IBM pending in South. Dist. of N.Y., etc. (ASC-J)hm	
1-28-74	IBM's bill of costs on contempt application, filed. hm	
1-30-74	Transcript of hearing on motions had on 1-15-74 and 1-16-74 (Vol. I and Vol. II), filed. hm	
2-7-74	Hearing held before Clerk on IBM's bill of costs on contempt application. Pltf. rep. by Floyd Walker; deft. rep. by Bill Hunt. Bill of costs reduced from \$815.20 to \$738.27 by Clerk. Pltf. objects to amt. allowed for court reporter fees & is advised by Clerk to file motion to retax costs within 5 days. (JCS-Clerk)hm	

(over)

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2-7-74	Pltfs' motion to review, filed. hm	
2-7-74	Memorandum brief in support of pltfs' motion to review taxation of costs, filed. hm	
2-21-74	Order, filed, granting pltfs. mo/review taxation & sustaining objs. to extent of disallowing \$381 of reporter's charges. (ASC-J)rm	
3-20-74	IBM's Release for Bill of Costs, filed. e	
4-17-74	Pltfs' request to clerk to furnish tenth circuit court of appeals with designated parts of record on appeal, filed. hm	
4-18-74	Transcript of proceedings had on 3-30-73 pre-trial, filed. hm	
4-23-74	Partial appeal record (12 volumes) transmitted to USCA. rm	
4-29-74	Request of def. to clerk to furnish 10th Circuit CA with designated parts of record on appeal, filed. rm	
4-30-74	Partial appeal record (Vols. XIII, XIV & XV) transmitted to USCA.rm	
10-14-74	Stipulation re protective order, filed. (ASC-J)hm (copies mailed)	
5-8-75	Letter, filed, from 10th Circuit advising they were transmitting cert. record at req. of petitioner and enclosing Appendix in 12 vols. in lieu of record on appeal. rm	
6-9-75	Letter from 10th Circuit, filed, 6/6/75, advising that petition for writ of cert. was filed in Supreme Ct. and given No. 74-1518 on 6/2/75. rm	
6-11-75	Appeal record (15 vols.) sent to Supreme Court by USCA. g	
8-22-75	Pltf's mo/leave of Court to file amended supplemental complaint on the previously severed foreign issues; and, for transfer to the No. Dist. of Calif. (MDL-163-RM) for consolidated and coordinated discovery with the Memorex case, filed. hm	
8-22-75	Memorandum brief in support of Telex's mo/permission to file amended comp. on foreign issues; &, for transfer of case for MD trial preparation, filed. hm	
9-8-75	Motion of Telex to vacate order staying discovery on foreign issues, filed. hm	
9-8-75	Order for further briefing and submission of views as to the necessity of oral argument, filed, directing deft. to brief in resp. to pltf's motion & brief by 9-15-75; if motion opposed, pltfs. directed to file reply brief 10 days thereafter. (ASC-J)hm	
9-15-75	IBM's Memorandum in Response to Telex's Motion Concerning Foreign Issues, filed.mm	
9-15-75	Affidavit of Job Taylor, III, filed. mm	
9-15-75	Affidavit of Thomas D. Barr, filed. mm	
9-15-75	Certificate of Filing & Service, filed, of IBM's Memorandum in Response to Telex's Motion and Affidavits' of Taylor and Barr.mm	
9-18-75	Telex's Reply to IBM's Memo. Concerning Foreign Issues, filed. 1m	
9-22-75	Addendum to Telex's Reply Memorandum Concerning Foreign Issues, Filed. mm (Sealed & Sequestered)	

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9-26-75	Order denying motions without prejudice, filed. (ASC-J)hm (copies mailed)	
9-29-75	Court's memorandum concerning denial of pltfs' motion with reference to foreign issues, filed. (A. Sherman Christensen-J)g	
10-3-75	Stipulation of plaintiffs and defendant of dismissal with prejudice and without costs of all claims, including heretofore severed claims, without limitation, filed and entered. rm	
10-3-75	Release and satisfaction by IBM of Amended Judgment and Decree, as modified on appeal, which awarded IBM the sum of \$18,500,000.00, filed. rm	
10-22-75	Mandate and Opinion from USCA, filed and spread of record, affirming in part/reversing in part judgment of trial Court: Judgment of trial Court which entered a money judgment against IBM is reversed; trial Court's judgment finding & determining that the acts of IBM were predatory and contrary to Sherman Antitrust Act is reversed; judgment of trial Court against Telex on counterclaim is affirmed as to the liability of Telex; damage award is reduced to \$17,500,000 compensatory damages; judgment in amt. of \$1,000,000 punitive is affirmed; as modified, this judgment on counterclaim is affirmed & judgment shall bear int. from date of orig. judgment entered by trial court; trial court's awards of attys fees & costs are vacated & cause is remanded to USDC for NDO for further proceedings in accordance with order & opinion of USCA. (HKP-Clk. USCA)hm-	
12-12-75	Receipt, filed, for depositions, deposition exhibits and trial exhibits. hm (copies delivered)	
12-29-75	Order, filed, directing Clerk to deliver the Court Census to IBM counsel, under terms of protective order herein, & they, together with Justice Dept attys. shall retain custody of said Census to use in USA vs IBM. (ASC-J)hm (copies mailed)	
1-9-76	Receipt, filed, from IBM, Telex and Dept. of Justice of joint exhibits J-1 thru J-2800, being Census. rm	
5-6	Partial Release and Satisfaction of Judgment, filed. t	
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3-17	APPLICATION of deft to dismiss appeal bond & to pay out proceeds of appeal bond. (O2BN)jc	
3-22	ORDER that appeal bonds in amt of \$250.00 ea. (total of \$500.00) be paid to counsel for deft, Hopkins, King & Rucker, Inc. (HDC-J)jc (c/atty)	

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